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May 14, 2001

Via Facsimile and First Class Mail

Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Attention: Elizabeth Williams

Re: MUR 5183

Dear Ms. Williams:

On behalf of respondents DNC Services Corporation/Democratic National Committee (the "DNC") and Andrew Tobias, as Treasurer, this will respond to the Complaint filed in the above-referenced MUR. As explained below, the Complaint simply fails to set forth facts that show any violation by the DNC of the Federal Election Campaign Act of 1971, as amended (the "Act") or the Commission's regulations. For that reason, the Commission should find no reason to believe that the DNC has violated the Act or the Commission's regulations and should close the file in this case.

The Complaint makes three basic charges:

- (1) the "Corporate Respondents," including Citizenship Education Fund, Inc., Rainbow/PUSH Coalition, Inc. or People United, made illegal corporate contributions, in violation of 2 U.S.C. §441b, by paying for the salary and/or travel expenses of Rev. Jesse Jackson while he was engaged in travel on behalf of the Democratic Party and Gore/Lieberman, Inc.;

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- (2) Gore/Lieberman, Inc. violated the Presidential Election Campaign Fund Act by accepting payments by the Corporate Respondents for travel on behalf of Gore/Lieberman; and
- (3) The DNC made contributions to the non-federal account of Keep Hope Alive PAC, a federal political committee, in violation of contribution limits, 2 U.S.C. §441a(1)(c), even though those limits do not apply to contributions to a non-federal account of such a committee, because the PAC did not properly allocate its disbursements between its federal and non-federal accounts in accordance with the Commission's rules, 11 C.F.R. §106.6.

The Complaint does not set forth any facts that would show, under any of these theories, that the DNC committed any violation of the Act or the Commission's rules.

I. Alleged Payment by Corporate Respondents for Travel on Behalf of Democratic Party

The Complaint alleges that an illegal corporate contribution was made, in violation of 2 U.S.C. §441b, by the payment of the salary of Rev. Jesse Jackson by the Corporate Respondents "during the time when he was substantially engaged full-time in traveling and speaking on behalf of the Democratic National Committee and Gore/Lieberman, Inc." (Complaint at 4, I(A)). The Complaint also alleges that payments of travel costs by the Corporate Respondents for Rev. Jackson were unlawful corporate contributions because that travel was for the purpose of "partisan" voter registration and get out the vote activity (*id.* I(B)); and that expenditures by the Corporate Respondents for such activities were unlawful because they were "coordinated" with "Gore/Lieberman, Inc., the Democratic National Committee or other federal candidates." (*Id.* I(C)).

The Complaint fails, however, to set forth any evidence that Rev. Jackson traveled or spoke on behalf of the Democratic National Committee at the expense of any of the Corporate Respondents. First, the Complaint charges that "Jackson made numerous campaign appearances with and for the Democratic Party. . . during the months preceding the general election on November 7, 2000, including but not limited to participation in and a nationally televised speech to the Democratic National Convention." (Complaint ¶5). The complaint cites eight newspaper articles, Complaint Exhibits 6 through 13, all of which refer exclusively to Rev. Jackson's appearance at the 2000 Democratic National Convention in Los Angeles. None of these articles suggests that any of the Corporate Respondents paid for any of Rev. Jackson's travel costs in connection with his Convention appearance and, in fact, all of the costs attributable to that appearance were paid for by the 2000 Democratic National Convention Committee, Inc. ("2000 DNCC"), as verified by the Commission's recently completed audit of the 2000 DNCC.

Second, the Complaint alleges that Rev. Jackson traveled and made appearances on behalf of and at the request of the Gore/Lieberman campaign (Complaint ¶6), which of course is a completely separate entity from the DNC.

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Third, the Complaint charged that “travel and voter mobilization activities by Jackson and the Corporate Respondents were at the direct request of and coordinated with the Democratic National Committee and Gore/Lieberman.” (Complaint ¶7). The complaint cites ten newspaper articles, Complaint Exhibits 30 through 39, only one of which, Exhibit 38, even mentions the DNC. That article refers to a GOTV tour through Pennsylvania by then-DNC General Chair Edward Rendell, and suggests that the Democrats are also “sending out party stars- such as .. Rev. Jesse Jackson. . .” There is no indication anywhere in this article that this tour was sponsored by or paid for by any of the Corporate Respondents; to the contrary, like the other events referenced in Exhibits 30 through 39, the tour appears to be an event sponsored by Gore/Lieberman or the state Democratic Party, at which Rev. Jackson may have appeared. There is simply nothing in any of these articles that suggests, even remotely, that any travel or other expenses paid by Corporate Respondents for their own nonpartisan GOTV efforts were in any way coordinated with the DNC.

Fourth, the Complaint alleges that “[p]ayments from the Democratic National Committee to reimburse corporate Respondents for Jackson’s travel costs are prima facie evidence that the voter registration and get out the vote activities were partisan and were coordinated with the Democratic National Committee.” (Complaint ¶8). None of the three newspaper articles cited in support of this allegation—Exhibits 71 through 73—have anything to do with any coordination of nonpartisan GOTV efforts of the Corporate Respondents with the DNC or any Democratic party committee. Rather, this allegation appears to rely on two distinct sets of contributions made by the DNC: (i) contributions totaling \$110,000 from the DNC’s non-federal account to the non-federal account of Keep Hope Alive PAC in the year 2000 (Complaint ¶¶11-12); and (ii) a contribution of \$250,000 from the DNC to Rainbow/PUSH Coalition, Inc., made on December 6, 2000. (Complaint Exhibit 80).

Both of these payments were perfectly lawful. The contribution to Keep Hope Alive PAC from the DNC was made from the DNC’s non-federal account and was deposited in the PAC’s non-federal account. There is no evidence anywhere in the Complaint or the exhibits that the DNC had any knowledge of how the PAC allocated its expenses or made use of these funds, or ever discussed the use of the PAC’s funds in any way with the PAC. Similarly, the \$250,000 contribution to Rainbow/PUSH was allocated by the DNC between the DNC’s federal and non-federal accounts, in accordance with the Commission’s position that funds provided by a party committee to an outside group conducting nonpartisan GOTV must be allocated as a generic voter drive activity under 11 C.F.R. §106.5. See FEC v. California Democratic Party, 13 F. Supp.2d 1031 (E.D. Cal. 1998); MUR 3774; letter to party committee treasurers from FEC Chairman Darryl Wold, March 30, 2000. Again, the DNC made this contribution in a completely lawful manner and there is no evidence anywhere in the Complaint or its Exhibits that the DNC discussed or coordinated the use of the contributed funds by Rainbow/PUSH.

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In this regard, the Complaint further alleges that payments by the Corporate Respondents were "reimbursed by the Democratic National Committee in the amount of \$450,000." (*Id.*). In support of this allegation, the Complaint cites a CEF "Report to Donors" (Complaint Exhibit 1) showing \$614,419 of expenses for "Rev. Jesse L. Jackson's Organizational Travel", for unspecified purposes, in the year 2000, and newspaper reports attributing to the Chief Financial Officer of Rainbow/PUSH the suggestion that \$450,000 of Rev. Jackson's travel costs were "covered" or "footed" by "Democratic Party committees." (Complaint Exhibits 3, 4 & 5). Again, however, there is no indication anywhere in the Complaint or its Exhibits that the DNC ever discussed with either the PAC or Rainbow/PUSH the use of any of the funds the DNC contributed to these entities.

For these reasons, the Complaint fails to set forth facts showing that any of the Corporate Respondents made any unlawful contribution to the DNC.

II. Allegation That Gore/Lieberman, Inc. Violated Fund Act

The Complaint alleges that the costs of Rev. Jackson's travel and appearances were "qualified campaign expenses" which should have been paid for by Gore/Lieberman, Inc. The Complaint charges that Gore/Lieberman's "acceptance" of these payments violated the Fund Act. (Complaint at 6, II). In support of these allegations, the Complaint cites a number of newspaper articles, Exhibits 15-70, referring to various efforts to mobilize African-American voters and various appearances by Rev. Jackson.

Except for Exhibit 38, discussed above, none of the articles even mentions the DNC. Further, it is obvious that the DNC could not and did not violate the Fund Act. For these reasons, section II of the Complaint does not state any facts that would establish any violation of the Act or the Commission's rules by the DNC.

III. Allegation re DNC Contributions to Keep Hope Alive PAC

Section III of the Complaint alleges that the DNC transferred funds to Keep Hope Alive PAC's non-federal account "in an amount which exceeded the limits for contributions to a federal political action committee", under 2 U.S.C. §441a(1)(c). (Complaint at 7). The Complaint further alleges that the PAC in turn allocated its disbursements in violation of the Commission's allocation rules for non-connected committees, 11 C.F.R. §106.6, and misreported the amounts it spent for non-federal purposes in violation of 2 U.S.C. §434(a).

It is undisputed, as shown by Exhibits 74, 76, 78 and 70 to the Complaint, that the DNC's contributions to this PAC were made from the DNC's non-federal account and were properly deposited in the non-federal account of the PAC. The contributions were, therefore, entirely lawful. Obviously the limit on contributions to a federal political

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committee set forth in 2 U.S.C. §441a(1) does not apply to contributions made to a non-federal account of such a committee.

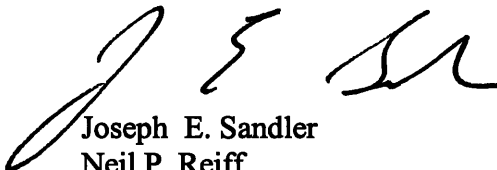
The DNC, moreover, is clearly not liable for the manner in which the PAC allocated its various disbursements between its federal and non-federal accounts.

For these reasons, section III of the Complaint does not state any violation by the DNC of the Act or the Commission's rules.

CONCLUSION

For the reasons set forth above, the Complaint in this MUR does not set forth facts which would show any violation of the Act or the Commission's rules by the DNC. Therefore, the Commission should find no reason to believe that the DNC violated the Act or the Commission's rules, and should close the file in this MUR as to the DNC.

Respectfully submitted,



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